

INTERNAL REVENUE SERVICE

North Atlantic Region

Department of the Treasury

Address any reply to Appeals Office at:

Person to Contact:

Telephone Number:

Refer Reply to:

Date: 22 APR 1991

Gentlemen:

This is our Final Adverse Determination/Ruling Letter concerning your organization's request for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

The evidence presented indicates that your organization was incorporated under the Non-Stock Corporation Act of the State of [REDACTED].

Your purposes, as provided in your Articles of Organization, are "to encourage, promote and stimulate the social, spiritual and education development of single persons of the [REDACTED] faith, for the solicitation, compilation, publication and distribution of information calculated and dedicated to improving the quality of life for single persons of the [REDACTED] faith; to assist public and private nonprofit agencies engaged in activities in furtherance of the above purposes; to aid, form, direct, promote, organize, develop, sponsor, support, coordinate and conduct programs both individually and in cooperation with other organization, associations, institutions, corporations, societies, and other agencies engaged in activities to effectuate the purposes of the corporation; and to secure human rights established and guaranteed by law regardless of sex, age, race, religion, color, creed, physical handicap or national origin."

Section 501(c)(3) of the Internal Revenue Code provides, in pertinent part, for the exemption from Federal income taxes organizations that are organized and operated exclusively for charitable and educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a) of the Internal Revenue Code Regulations provides that in order to be exempt under Section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in Section 501(c)(3). If an organization fails to meet either the organizational or operational tests, it is not exempt.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of Section 501(c)(3) of the Code, may qualify under this section.

Revenue Ruling 67-4, 1967-1 C.B. 121 states, in part, that an organization engaged in publishing may qualify for exemption under Section 501(c)(3) of the Code if (1) the content of the publication is educational, (2) the preparation of the material follows methods generally accepted as educational in character, (3) the distribution of the material is necessary or valuable in achieving the organizations exempt purpose, and (4) the manner which the distribution is accomplished is distinguishable from ordinary commercial publishing practices.

Revenue Ruling 67-4, also stated, that the content of the publication must be educational to qualify for exemption under Section 501(c)(3) of the Code. In Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations, it states that the term "educational," as used in Section 501(c)(3) of the Code relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Your primary activity consists of publishing a magazine called "[REDACTED]". The information in the magazine consists of a listing of parties that will be occurring in the near future; personals submitted by single [REDACTED] individuals indicating likes and dislikes and what that particular individual is looking for in a partner, classified ads and advertisements. The magazine is similar to operating a dating service for single [REDACTED] individuals. The information in your publication does not meet the definition of "educational" as described in Section 501(c)(3) of the Code because the magazine is limited to serving the direct benefit of the single [REDACTED] individual and the community at large receives no benefit.

The information available demonstrates that, your primary activity will consist of preparing and publishing a magazine with an ethnic emphasis, soliciting advertising and selling subscriptions to that magazine in a manner indistinguishable from ordinary commercial publishing practices.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945) the Supreme Court stated, in part, that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3). Your primary activity consists of publishing a magazine for single [REDACTED] individuals. The organization solicits advertisements and sells the magazines by subscriptions. The information in the magazine is not considered educational under IRC 501(c)(3) and your publishing operation is indistinguishable from a commercial publishing enterprise.

Based on the information you have provided, it has been determined that your organization has failed the organizational test because the purposes specified in your Articles of Organization fail to satisfy the requirements of Section 501(c)(3) of the Code.

In reference to the operational test, it has been determined that your organization has also failed to meet this test since the magazine was operated in a manner indistinguishable from a commercial enterprise.

Accordingly, your organization does not qualify for exemption under Section 501(c)(3) of the Internal Revenue Code of 1954. Therefore, you are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible under Section 170 of the Code.

If you decide to contest this determination under the declaratory judgement provisions of Section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the District Court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaration judgement.

As provided in Section 6104(c) of the Internal Revenue Code of 1954 and applicable regulations, the appropriate State Officials will be notified of this determination.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

  
Commissioner

By: 

Associate Chief  
Boston Appeals Office

Internal Revenue Service

Department of the Treasury

District  
Director

████████████████████  
c AUG 23 1988

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have completed consideration of your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The purposes stated in your Certificate of Incorporation are to serve the ██████ single population of the United States and in particular in ██████; to encourage, promote and stimulate the social, spiritual and educational development of single persons of the ██████ Faith.

The activities stated in your 1023 application are to provide a cultural outlet for ██████ single people regarding cultural activities and dances. It intends to publish a magazine for ██████ singles, which will include articles on education in ██████ culture, marriage and intermarriage responsibilities, parenting, and single encounters.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Code, may qualify under this section.

Revenue Ruling 67-4, 1967-1, C.B. 121 states, in part, that an organization engaged in publishing may qualify for exemption under section 501(c)(3) of the code if (1) the content of the publication is educational, (2) the preparation of the material follows methods generally accepted as educational in character, (3) the distribution of the material is necessary or valuable in achieving the organization's exempt purpose, and (4) the manner which the distribution is accomplished is distinguishable from ordinary commercial publishing practices.

Revenue Ruling 77-4, 1977-1, C.B. 141 states, in part, that a non-profit organization, whose only activities are preparing and publishing a newspaper of local, national, and international news articles with an ethnic emphasis, soliciting advertising and selling subscriptions to that newspaper in a manner indistinguishable from ordinary commercial publishing practice, is not operated exclusively for charitable and educational purposes and does not qualify for exemption.

In Revenue Ruling 67-4, it stated, in part that the content of the publication must be educational to qualify for exemption under section 501(c)(3) of the Code. In Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations, it states that the term "educational," as used in section 501(c)(3) of the Code, relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Your primary activity consists of publishing a magazine called "██████████". The information in the magazine consists of a listing of parties that will be occurring in the near future; personals submitted by single ██████ individuals indicating likes and dislikes and what that particular individual is looking for in a partner, classified ads and advertisements. The magazine is similar to operating a dating service for single ██████ individuals. The information in your publication does not meet the definition of "educational" as described in section 501(c)(3) of the Code because the magazine is limited to serving the direct benefit of the single ██████ individual and the community at large receives no benefit.

The information available demonstrates that, like the organization described in Revenue Ruling 77-4, your primary activity will consist of preparing and publishing a magazine with an ethnic emphasis, soliciting advertising and selling subscriptions to that magazine in a manner indistinguishable from ordinary commercial publishing practices.

In *Better Business Bureau v. U.S.*, the Supreme Court stated, in part, that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3). Your primary activity consists of publishing a magazine for single individuals. The organization solicits advertisements and sells the magazines by subscriptions. The information in the magazine is not considered educational under IRC 501(c)(3) and your publishing operation is indistinguishable from a commercial publishing enterprise.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

/s/ [REDACTED]

District Director

Enclosure: Publication 892

cc: [REDACTED]